

HOUSE BILL REPORT

SB 5602

As Passed House:

March 2, 2022

Title: An act relating to service providers working with state-regulated financial institutions.

Brief Description: Concerning service providers working with state-regulated financial institutions.

Sponsors: Senators Mullet and Hasegawa; by request of Department of Financial Institutions.

Brief History:

Committee Activity:

Consumer Protection & Business: 2/16/22, 2/17/22 [DP].

Floor Activity:

Passed House: 3/2/22, 97-0.

Brief Summary of Bill

- Authorizes the Director of the Department of Financial Institutions to examine and take enforcement actions, including joint examination and enforcement actions with other state and federal agencies, against service providers that provide certain services to state-chartered banks, savings banks, or savings and loan associations.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass. Signed by 7 members: Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry, Ryu and Santos.

Staff: Corey Patton (786-7388).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The Department of Financial Institutions (DFI) is authorized to regulate state-chartered financial institutions, including banks, savings banks, savings and loan associations, and other similar institutions. Service providers may contract with financial institutions to provide a variety of services, and the DFI generally has limited authority under state law to examine or regulate such providers.

Summary of Bill:

The Director of the Department of Financial Institutions (Director) is authorized to examine a service provider that provides a certain service to a state-chartered bank, savings bank, or savings and loan association, to the same extent as if the service was performed by the financial institution itself, provided that the Director finds that:

- the information sought cannot be otherwise accessed or verified without direct examination of the records of the service provider;
- the service provider manages an application, process, or system for the benefit of the financial institution, the integrity of which cannot be evaluated without direct examination; or
- an act or omission of the service provider has resulted in a significant heightened risk, is committing an unsafe and unsound practice, operating in an unsafe or unsound manner, or is otherwise violating a specified provision of state law.

The Director may enter into examination and information sharing agreements with any state or federal agency that has joint or concurrent jurisdiction over a service provider. The Director may accept service provider reports of examination made by any other state or federal agency in lieu of examination authorized under state law. A service provider report of examination written or obtained by the Director is confidential, subject to state and federal law and certain exceptions.

If the Director performs an examination with any other state or federal agency and produces a joint service provider report of examination, a copy may be furnished to:

- the examined service provider or financial institutions serviced by the provider, in accordance with federal law and the attendant rules, regulations, policies, and guidance applicable to service provider examinations;
- outside parties, with written consent of all state and federal agencies that participated in the examination; or
- outside parties, if compelled in response to a valid legal process and subject to a written notice of disclosure and reasonable opportunity to object.

If the Director performs an examination and produces a state-only service provider report of examination, a copy may be furnished to:

- the examined service provider;
- any state-chartered or state-licensed financial institution serviced by the provider; or
- outside parties, if compelled in response to a valid legal process with reasonable opportunity to object.

The Director may take enforcement actions against a service provider for planning, attempting, or currently violating any state or federal law, or engaging in any unsafe or unsound practice, to the same extent and as if the service was performed by the financial institution itself. The Director may enter into joint examinations or joint enforcement actions with other state or federal agencies having joint or concurrent jurisdiction over a service provider.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Over the years, key banking functions have migrated off bank premises. Banks now utilize third-party service providers for key functions, such as cybersecurity, data privacy, and other consumer protections. The Department of Financial Institutions (DFI) is seeking authority to cooperate with other state and federal regulatory partners to share information and participate in examinations related to service providers. Thirty-five other states already have similar authority. This bill was developed with industry stakeholders, and the DFI understands that the stakeholders support this bill.

(Opposed) None.

Persons Testifying: Senator Mark Mullet, prime sponsor; and Drew Bouton and Roberta Hollinshead, Department of Financial Institutions.

Persons Signed In To Testify But Not Testifying: Alex Stein.